

Exhibit D

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DEMOCRACY NORTH CAROLINA;
NORTH CAROLINA BLACK ALLIANCE;
LEAGUE OF WOMEN VOTERS OF
NORTH CAROLINA,

CASE NO.
1:23CV00878-TDS-
JEP

Plaintiffs,

vs.

ALAN HIRSCH, in his official
capacity as CHAIR OF THE STATE
BOARD OF ELECTIONS; JEFF
CARMON III, in official
capacity as SECRETARY OF THE
STATE BOARD OF ELECTIONS;
STACY EGGERS IV, in his
official capacity as MEMBER OF
THE STATE BOARD OF ELECTIONS;
KEVIN LEWIS, in his official
Capacity as MEMBER OF THE
STATE BOARD OF ELECTIONS;
SIOBHAN O DUFFY MILLEN, in her
official capacity as MEMBER OF
THE STATE BOARD OF ELECTIONS;
KAREN BRINSON BELL, in her
official capacity as EXECUTIVE
DIRECTOR OF THE STATE BOARD OF
ELECTIONS; NORTH CAROLINA
STATE BOARD OF ELECTIONS,

Defendants.

VIDEOTAPED 30(b)(6) DEPOSITION OF
NORTH CAROLINA ELECTION INTEGRITY TEAMS
By JAMES K. WOMACK, JR.

(Taken by Plaintiffs)

Raleigh, North Carolina

September 19, 2024

Reported by Andrea L. Kingsley, RPR

A P P E A R A N C E S

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1 VIDEOTAPED 30(b)(6) DEPOSITION OF
2 NORTH CAROLINA ELECTION INTEGRITY TEAMS by
3 JAMES K. WOMACK, JR., a witness called on
4 behalf of the Plaintiffs pursuant to the
5 Federal Rules of Civil Procedure, before
6 Andrea L. Kingsley, Notary Public, in and for
7 the State of North Carolina, at Southern
8 Coalition for Social Justice, 5517
9 Durham-Chapel Hill Boulevard, Durham, North
10 Carolina, on Thursday, September 19, 2024,
11 commencing at 11:08 a.m.
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1 more active entities?

2 A. Well, there are a number of
3 nongovernmental organizations that are very active
4 in that space.

5 Q. Like who?

6 A. Southern Coalition of Social Justice.

7 Q. I was going to wonder if you --

8 A. I would say the Democracy Now. The
9 Voter Participation Center. And then there are
10 groups that are on the right side of the fence that
11 are in that space like Election Transparency
12 Initiative and Election Integrity Network,
13 Restoring Integrity and Trust in Elections. The
14 RNLA. I mean, innumerable organizations that are
15 very active in that space that exist exclusively to
16 or at least a chief part of their operation is for
17 elections.

18 Q. Are there any that you would identify as
19 influential in the formation of NCEIT?

20 A. Yes. Election Integrity Network, yes.

21 Q. How were they influential in the
22 formation?

23 A. Our first meeting up there was during
24 the big storm of January 2022. We were called to
25 Washington or invited to Washington to participate

1 in a two-day seminar that described the Virginia
2 experience of 2021 and what they did to secure the
3 election, and being more than casually interested
4 in election integrity, I took the opportunity to
5 travel up there and for two days we were immersed
6 in citizen activism and what was done in Virginia
7 in 2021.

8 Q. Were you talking about things like the
9 eight pillars?

10 A. At that time there was a book and,
11 actually, you can pull that resource down if you're
12 interested, it's publicly available on our website.
13 It's how to build infrastructure for election
14 integrity, it's Cleta Mitchell's book and it was
15 being distributed at that time, and it's available
16 on our website, as well as the Virginia Experience
17 which was handed out at that seminar. Those two
18 documents were very helpful in us creating what we
19 call the eight lanes of election integrity.

20 Q. Is the eight lanes, is that something on
21 N --

22 A. That's an NCEIT specific term and it's
23 what we use in defining the organization for people
24 that are coming into it.

25 Q. So the Election Integrity Network and

1 Cleta Mitchell's book, the Virginia Experience book,
2 those are things that are kind of influential in
3 shaping those eight pillars?

4 A. Certainly was.

5 Q. Just a couple of personal questions very
6 quickly.

7 You graduated from West Point; is that
8 correct?

9 A. I did.

10 Q. Approximately when was that?

11 A. Specifically June 6, 1977.

12 Q. What did you study there?

13 A. I was an engineer.

14 Q. Any other degrees that you received?

15 A. I have a -- we have -- at that time we
16 had what they called a secondary or specialty area,
17 national security and public affairs.

18 Q. Anything else that you --

19 A. (Indicating).

20 Q. Then you served in the military after
21 that?

22 A. 20 years.

23 Q. Thank you for your service.

24 A. Thank you.

25 Q. And then what did you do after your

1 obviously -- if it's brought to our attention, we
2 certainly try to make sure that they have the
3 opportunity to vote.

4 Q. Would you say college students are a
5 vulnerable population of voters?

6 A. No, I wouldn't actually.

7 Q. Why not?

8 A. As a matter of fact, I think we bend
9 over backwards in the country and particularly in
10 the State of North Carolina to make sure college
11 students have every opportunity to vote.

12 Q. Bend over backwards how?

13 A. We set up precincts in student unions,
14 set up voting sites. We allow them to use student
15 IDs instead of driver's licenses for voter ID. I
16 got to tell you, just a number of methods that we
17 make for students to make -- give them the
18 opportunity to go vote and to make it really easy
19 to vote.

20 Q. Do you think those are opportunities
21 that -- is it your view that those are opportunities
22 that are disproportionately given to college
23 students as kind of a special favor?

24 A. It's not mine to judge what's
25 disproportionate. I just don't think they're a

1 vulnerable population.

2 Q. Any other vulnerable groups you
3 identify?

4 A. Not off the top of my head, but I
5 mentioned three.

6 Q. Has NCEIT seen a growth in interest from
7 members in the public in election integrity
8 recently?

9 A. Yes. And by the media. Yes.

10 Q. What would you attribute that increased
11 interest to?

12 A. Sometimes it's just curiosity. We're in
13 an election season right now so people that are
14 otherwise engaged in plenty of other things, work,
15 family, church all of a sudden are now concerned
16 about the election and what they've seen or heard
17 in the past comes to mind and they think how can I
18 plug in, how can I make a difference and maybe --
19 they find out about our work and they ask or they
20 get recruited by some of our members to come in and
21 participate. That's -- we're seeing a renewed
22 interest but it's not unexpected because we had the
23 same experience in 2022 as we got into September,
24 October, people are naturally interested in getting
25 involved in making sure the elections are fairly

1 Q. Would it surprise you if I told you that
2 young voters disproportionately use SDR?

3 A. Not at all.

4 Q. Why not?

5 A. Because young voters tend to be like
6 social butterflies. They bounce around and their
7 attention span, as a general rule, their attention
8 span is focused on other things until just before
9 the election and all of a sudden they're motivated
10 to -- beer drinking buddies or college student
11 friends or whatever say, hey, have you registered,
12 let's get registered right now. It's perfectly
13 logical, that's the way it work knowing that they
14 have all these other activities that merit their
15 attention.

16 Q. Do you think it has anything to do with
17 them moving around more frequently for jobs, school,
18 things like that?

19 A. Sure. That too. Yeah.

20 Q. Maybe renting more and so moving year to
21 year because they didn't renew their lease
22 somewhere?

23 A. Very plausible.

24 Q. Would it surprise you if I told you
25 college voters also use SDR more than other groups

1 of voters in North Carolina?

2 A. It wouldn't surprise me at all. They're
3 a very mobile population, particularly out-of-state
4 kids that moving into the state and since
5 college dorms -- most people don't go to college
6 and live in the dorm where they -- in the city that
7 they live. They commute if they're in the city.
8 So, yeah, it wouldn't surprise me at all.

9 Q. Would it surprise you if a lot of those
10 college students don't receive mail at their dorm
11 rooms specifically?

12 A. Well, that's an interesting question.
13 When I was in college it was a different college, I
14 got all my mail in my dorm room. So that's my
15 frame of reference. But, no, I hadn't really
16 thought about it.

17 Q. How does a college student's domicile
18 and kind of determining where that is interact with
19 the same day registration usage in your view?

20 MR. BROOKS: Objection to the form
21 but you can answer.

22 A. So I'm not sure I follow your question.

23 Q. Do you think there's a relationship
24 between how a college student is kind of flexible in
25 determining their domicile, maybe trying to figure

1 back on several of the things that were in our
2 presentation. Senator Hise in particular and
3 Senator Daniel both pushed back on several of the
4 issues we were pressing and, you know, we respected
5 that.

6 Q. How about Representative Grey Mills?

7 A. I met with Grey two or three times.
8 Never more than five to seven minutes on a
9 particular issue. The one time we spent about five
10 minutes together was pretty intense. I educated
11 him on some election law stuff he wasn't aware of
12 that I was shocked about. He was unaware that
13 there's a different treatment of the -- in the
14 early voting sites than there is for in-person
15 voting on election day. He didn't realize that the
16 staffing is done differently and that the
17 allegiances are different. I thought, you know, as
18 the chairman of the elections committee he knew --
19 he was thoroughly familiar with the law.
20 Apparently he wasn't. And he actually did correct
21 that in one of the bills after we talked about it.

22 Q. So a handful of times?

23 A. Yeah. I'd say -- he hasn't really
24 responded to any of my e-mails, but his LA has
25 responded to me a few times and I have been able to

1 meet with him two or three times.

2 Q. How about Speaker Moore?

3 A. Zero contact with Speaker Moore other
4 than, you know, smiling and saying hi to each
5 other.

6 Q. Senator Berger?

7 A. Even less. He won't even smile.

8 Q. How about Representative Hugh Blackwell?

9 A. No meetings and he's been cc'd on some
10 of my exchanges but I don't remember him
11 responding.

12 Q. We talked about Representative Cleveland
13 a little bit.)

14 A. Yeah. It's pretty intense with George.
15 He's on his way out, but we were trying to milk him
16 for everything we could on his way out the door.
17 He's a wonderful civil servant and he was the most
18 approachable of all the legislators when we were
19 talking election law.)

20 Q. Would you say you met with him regularly
21 on election law issues?

22 A. Yes.)

23 Q. And there was a give and take, a back
24 and forth, he was interested in what you had to say?

25 A. Absolutely. Not always agreeing but he

1 was very receptive of the things that we were
2 advocating.

3 Q. How about Representative Ted Davis, Jr.?

4 A. I would say similar to Cleveland, a
5 little less accessible but every bit as effective
6 in presenting materials. And I've met with Ted at
7 least three times, all brief meetings, but he was
8 very good about using the material that we
9 provided. So yeah, I would say he was very
10 resourceful.

11 Q. Similarly interested in what --

12 A. He was. He was.

13 Q. Representative Pike?

14 A. I met -- he was on -- Joe was on the --
15 there's a group in the legislature that's not on
16 the election committee, but pre-session they had
17 working groups in various topical areas, and Joe
18 Pike, of course, lives real close to me down in the
19 Sand Hills, Joe volunteered to be on the election
20 coordinating group. So I met with him twice before
21 session, this last session, and he was interested
22 in what we were doing and he was providing feedback
23 back to Speaker Moore on things that they ought to
24 be doing.

25 Q. Do you remember which items in

1 it on 747. Not totally untrue because it happened
2 the morning after the bill came out.

3 Q. Oh, man.

4 A. It was tough. I was up all night trying
5 to write a response to a bunch of stuff.

6 Anyhow, the life of the 747 -- I don't
7 remember exactly -- off the top of my head, I don't
8 remember -- I don't recall what happened right
9 after it passed out of Senate and came over to the
10 House. I don't remember that. I want to say that
11 there was quite a few changes that occurred as it
12 came over. Maybe that third iteration was what it
13 was that finally corrected a bunch of stuff or
14 improved it. But I remember that we were okay with
15 the first version and the second version was really
16 bad. I think that's when they added the opening
17 the primaries and some other stuff. It was a
18 tortuous evolution.

19 Q. First off, I'm glad you're okay.

20 Second, would your meeting with Joe have
21 been after that first version crossed over from the
22 Senate to the House?

23 A. I don't recall. I don't remember
24 exactly when it was. I remember -- now that I
25 think about it though, it may have been before

1 747 -- I know there was -- he wanted to have a
2 meeting because we had sent a lot of correspondence
3 to Speaker Moore and to Sam Hayes and we had -- and
4 Joe was given the task of pulling to -- of
5 getting -- sitting down and going through all of
6 our material in preparation for what they were
7 going to do, and I can't remember the timing now,
8 it might have been just before 747 popped --
9 because I think there were a bunch of House bills
10 that were all scattered around at the time that
11 weren't going anywhere and they were trying to
12 figure out what are we going to do and they were
13 also -- I remember Joe specifically said, look, I'm
14 not really sure what the Senate's going to do. So
15 it may have been just before 747 came out and it
16 may have actually been before our meeting with the
17 Senate, the co-chairs.

18 But whenever it was, I remember it was a
19 two-hour meeting, we had a long, long conversation,
20 and one area it was in particular and, again, I
21 don't remember which topic it was, but there was --
22 we spent a good half hour, 45 minutes on one topic.
23 Again, I would have to go back to Jay to recall
24 what that was. I didn't take any notes. I just
25 remember taking some of these materials to him and

1 talking. Again, I don't remember where it was in
2 the timing of 747.

3 Q. You mentioned the last person on my list
4 here, Sam Hayes --

5 A. I've actually exchanged a good amount of
6 correspondence with Sam. He's connected to some
7 donor friends that I have up in Raleigh, and I
8 think that's the reason why Sam was interested in
9 talking to me, because the donors were interested
10 in him talking to me. Sam, he didn't really do a
11 lot with our materials other than help facilitate
12 getting meetings and that sort of thing.

13 Q. Going back to Brent Woodcox for a
14 second, do you have any sense of who was kind of
15 giving him instructions --

16 A. No idea. He operates in the shadows
17 over there. I really have no idea.

18 Q. And then for Joe you mentioned that it
19 was the Speaker who had kind of tasked him --

20 A. The Speaker and Sam, the two of them
21 gave the task to Joe.

22 Q. The task to just kind of filter through
23 the materials that you and folks like Jay DeLancy,
24 Carol Snow were kind of sending?

25 A. The only two people I know that were

1 providing details to Joe Coletti were myself and
2 Jay.

3 Q. I will introduce another exhibit here.

4 We will mark it as Plaintiff's Exhibit 89.

5 (Exhibit 89, social media post

6 dated 6/1/23, "Look what WE did!", marked for

7 identification, as of this date.)

8 A. I see my logo. Nice logo, huh?

9 Q. Not bad. I like the flag reference.

10 Take a moment to familiarize yourself with it.

11 Do you recognize this?

12 A. I do.

13 Q. What is it?

14 A. It's apparently a social media post.

15 Q. About what?

16 A. About -- this is -- this came out right

17 after 747 I think. I can't remember exactly when

18 it came out, I just remember Jane putting it out

19 and I remember it triggered some -- the headline

20 obviously I remember. "Look What We Did." I told

21 Jane I thought this was a little overzealous and I

22 don't know that there's anything in here -- by the

23 way, I didn't review this before coming in today, I

24 just remember when she posted it, I remember it was

25 going around.

1 Jane's really good about producing --
2 doing a little chest thumping after we do things
3 and putting information out on the internet. She's
4 really good about most of the material. This one
5 may have been just a hair overzealous. I think
6 that I would not have said that the way she said
7 it, "Look At What We Did," because, frankly, there
8 wasn't a lot in there that we did.

9 But I remember when it got posted and I
10 remember it raised a little concern.

11 Q. Let me direct you to the bottom of that
12 first page, that last paragraph. It looks like
13 these are quotes from that WRAL article that is
14 linked at the top and you're quoted there at the
15 beginning of that paragraph. Do you see that?

16 A. Yeah. Yeah, I see that quote.

17 Q. It says, "From talking to leaders in the
18 House and Senate, it appears they're going to bundle
19 all these meritorious changes and put them in an
20 omnibus bill."

21 A. Yeah. So that's actually a quote that I
22 gave them. The context of that quote is probably
23 important.

24 I wasn't referring to a presentation we
25 gave to the senators, I was talking about that we

1 were given indication that they were going to
2 bundle everything -- rather than the House that at
3 the time had put all these individual bills
4 together, some of which we had some pretty
5 significant impact on. But those bills went
6 nowhere and weren't going anywhere because of the
7 division between the House and the Senate. So the
8 Senate decides they're going to do an omnibus bill.
9 And that was the reason why they granted the
10 meeting to Cleta, Jay and myself before they
11 released 747.

12 And the context of this quote that I
13 gave WRAL was it looks like they're going to take
14 all the meritorious changes that they found and put
15 them into one omnibus bill. In other words, we
16 were concerned the House bills weren't moving, the
17 Senate wasn't going to do anything and now, all of
18 a sudden, the Senate says we're going to do an
19 omnibus bill.

20 So we were expecting a lot of great
21 things to be incorporated into 747 or whatever it
22 was going to be, and that's what the source of that
23 quote was.

24 Q. You mentioned at the end of the
25 paragraph it's something you had been pushing for,

1 your group. Fair to say?

2 A. It's fair. It is. We had been
3 advocating for a better part of a year at that
4 point to try to get things done.

5 Q. Do you remember where your understanding
6 that the Senate was going to do an omnibus bill came
7 from?

8 A. I don't remember -- you know, we were
9 having dozens of conversations everyday.

10 The first indication I think came back
11 from my senator. I'm not one hundred percent sure.
12 But I know Jim Bergen actually had written a bill
13 on the removal of noncitizens for the jury duty,
14 the piece I explained before, and I was really
15 surprised that that was going to get incorporated
16 into the master bill. That's the only thing that
17 really, out of the Senate, that was even sitting
18 there that had any chance of moving. It got
19 incorporated. I think Jim's the one who told me it
20 was going to be incorporated into a larger bill.

21 But we were told, the first formal
22 information I had about an omnibus bill was when we
23 met with the three Senate co-chairs where they told
24 us that's what Brent Woodcox was putting together,
25 was an omnibus bill. That's the first indication I

1 had formally that it was going to happen, when they
2 granted that meeting.

3 Q. You also mentioned kind of discussions
4 with leaders in the House and the Senate. So we've
5 talked about talking with Joe and we've talked about
6 the meeting with the Senate co-chairs. Is there
7 anything else you would put in that bucket?

8 A. Yes.

9 Q. Who?

10 A. So we mentioned Ted -- Grey Mills,
11 George Cleveland. Who was our sponsor? I had some
12 conversations with Neal Jackson out of Moore
13 County. Now that I think about it, that's probably
14 it. There weren't any others that actually
15 sponsored any of our legislation, but the
16 individual conversations we had with bill sponsors
17 would have been the House leaders that I talked
18 about. It wouldn't have been anybody else that
19 hadn't shown an interest in election integrity or
20 sponsoring one of our bills.

21 Q. I'm going to introduce another exhibit
22 here which I think we're going to mark as Exhibit
23 90.

24 (Exhibit 90, website post, "NCEIT
25 Accomplishments since 2021", marked for

1 identification, as of this date.)

2 Q. Take a moment to familiarize yourself
3 with that. Let me know when you're ready.

4 A. That's off our website.

5 Q. You've anticipated my first question.
6 So this is a post from your website?

7 A. It is.

8 Q. Have you seen this post before?

9 A. Yeah. This is the updated -- this is an
10 undated version. It's being maintained by Jane
11 Bilello and Maryann Brain. They're the ones that
12 maintain our site. It's been slightly updated
13 since -- I wrote the original language that was up
14 there on the accomplishments and they've updated
15 it.

16 Q. Do you have any input into the updates
17 that happen on the website?

18 A. I guess I should be more responsive.
19 Yeah, I do have input to it and I can adjust or
20 modify anything I disagree with.

21 Q. Let's go down to that -- it's about
22 halfway down the first section, it says,
23 "Legislative Success." Do you see that bullet
24 point?

25 A. Yes.

1 Q. It lists Senate Bill 747, Election Law
2 Changes. Do you agree with that?

3 A. I agree that there's a piece of 747 that
4 we certainly had an impact on.

5 Q. Would you characterize 747 as a
6 legislative success?

7 A. Yeah, I would. Certainly. It moved in
8 the right direction. I don't know that I agree
9 with everything in it. I certainly disagree with
10 one piece of it, but, yeah, I think overall, on
11 balance, it's a success.

12 Q. And then looking at the bullet just
13 above that, it says, "Wrote the language included in
14 the past bills below using affidavits to
15 substantiate the changes."

16 A. Okay. So what that is -- I'm glad you
17 raised that question because one of the things we
18 used in our presentation for Senate Bill 747 was
19 reports into our statewide election integrity
20 reporting system.

21 We maintain a pretty nifty reporting
22 system, it's interactive, where a poll observer can
23 see something that's inappropriate in a voting
24 place and then record that in our system and we
25 compile that by category. So let's say there's a

1 You will note that almost none of that got into
2 747, but those were the specific legislative
3 recommendations.

4 Q. Did you ever offer draft bill text on
5 any of those?

6 A. Obviously, I would. I did -- to answer
7 your question specifically, I did offer to write
8 bill text if they wanted it and Woodcox was not
9 interested in that.

10 Q. When did your advocacy effort for the
11 2023 legislative session start? Would that have
12 been right after the 2022 election, different time?

13 A. Well, we were -- we spent the better
14 part of November, December 2022 compiling the SEIRS
15 reports to identify what are our chief aims in
16 2023. And we began some dialog, oral dialog with a
17 couple of legislators in January prior to the start
18 of the session, but I think our meetings actually
19 really didn't kick into gear until after they got
20 settled in probably mid February 2023.

21 Q. Do you remember who those legislators --

22 A. Early on were George Cleveland, Ted
23 Davis. We were sending materials to Grey Mills,
24 chairman of the elections committee.

25 Q. Anybody else that comes to mind?

1 A. Yeah, we were -- I don't remember
2 exactly when I made my first visit down to the
3 legislature, but we were looking for anybody on the
4 elections committee or the rules committee to talk
5 to. So I had chance meetings with several people.
6 I think Joe Pike was probably -- he was on the
7 working group that was meeting before session. So
8 Joe I talked to a little bit because he's a local
9 guy and I was trying to get him to advocate for
10 some stuff. That's probably about it.

11 Q. The working group that met before
12 session, is that a working group in the legislature
13 that was working specifically on election issues?

14 A. Yeah. Believe me, it's like I'm not
15 privy to anything they're doing, I just know the
16 members of working group. In fact, that's not even
17 published anywhere. We were told here are the
18 people that are going to be working on that working
19 group if you want to talk to them.

20 Q. Who's on that working group?

21 A. George was on it, Joe Pike was on it. I
22 can't remember. I think there were seven that were
23 on the House working group. But only -- there was
24 almost no correspondence with the elections
25 committee.

1 Q. The next few pages --

2 A. You will see the exact same slides that
3 are from my presentation.

4 Q. Fair to say Cleta Mitchell worked on
5 these recommendations?

6 A. That's a fair statement.

7 Q. Did you work with her on them?

8 A. I did.

9 Q. Assisted her in drafting them?

10 A. I drafted this slide based on her input,
11 yes.

12 Q. So she was kind of working with you to
13 develop these slides?

14 A. Yes. In preparation for the Senate
15 briefing.

16 Q. Did you work with her regularly before
17 this?

18 A. She's my boss.

19 Q. How so?

20 A. My organization is an extension of the
21 Election Integrity Network for the nation. I run
22 the statewide team for North Carolina. I'm one of
23 50 states and I work for Cleta as her national
24 director on the national working group for election
25 machines and technology. So we interact almost

1 daily.

2 Q. So you were working at her direction on
3 these slides?

4 A. No. I was working on -- these slides
5 were based on a review that Cleta had done of the
6 North Carolina statutes and the discussions we had
7 had about North Carolina's problems. She was
8 putting her recommendations together that were a
9 part of our whole package. I had my issues and
10 concerns and then she drafted them from her --
11 using her expertise as an attorney and election law
12 expert. So she was providing her inputs as well.

13 Q. So fair to say that she was taking some
14 of the materials you had given her and some of the
15 materials she developed from her own study to
16 generate this list?

17 A. Very good statement, yes.

18 Q. Was she involved in NCEIT's efforts
19 throughout the 747 legislative process?

20 A. No.

21 Q. How would you describe her involvement
22 in the 747 process?

23 A. Again, Cleta runs the national group.
24 She only has a small amount of time to commit to
25 North Carolina. That's my job, is to run the North

1 Carolina operation. So Cleta took a keen interest
2 because we were -- North Carolina is on a different
3 kind of legislative cycle than other states are.
4 We were at that critical point going into our cycle
5 and she had a potential to influence or to help us
6 influence the legislators on 747. So when the
7 three Senate co-chairs elected to meet with us,
8 then she put those recommendations together and
9 said, well, I want to address these when we go see
10 them.

11 Q. So she put these recommendations
12 together specifically for the Senate chair's
13 committee?

14 A. Um-hmm.

15 Q. Why are they attached to the e-mail from
16 January 17? Isn't that before the -- if you flip
17 back to that first page.

18 A. Yeah, that's a problem. I don't
19 remember her doing that before -- hmm -- that's a
20 good point. My presentation said December 22. So
21 my recollection may not be right. She may have put
22 it together before the meeting. I just know -- the
23 presentation for the Senate co-chairs is that and
24 those are word-for-word the same as the slides we
25 had here. So maybe she did them earlier. That's

1 interesting. I don't remember her doing it that
2 early but maybe she did. That's a good point.

3 Q. What is the kind of working relationship
4 between NCEIT and the Election Integrity Network
5 generally? Do they supervise the work? Do you kind
6 of pull resources from them?

7 A. So it's a -- Peters and Waterman did a
8 thing back in the 1970s called "Simultaneous
9 loose-tight properties" where you have some things
10 you watch real close and some things you just leave
11 other people to do. That's kind of the way our
12 relationship is with EIN. She provides overarching
13 guidance and information about what other states
14 are doing and she creates a forum for us to
15 interact, but there's only a certain number of
16 things that she really closely monitors. I think
17 legislation is one of those things.

18 She monitors what each of the states is
19 doing with respect to election legislation, and if
20 she sees or hears about somebody doing something
21 particularly noteworthy, then she makes sure
22 everybody else is aware of it and shares it.
23 Because she's a resident of North Carolina, she has
24 a keen interest in us because she want us to be the
25 model state for election integrity. And so she was

1 pretty involved in the run-up to the 2023 long
2 session.

3 I apologize, I didn't recall that she
4 had done those slides that early, I thought it was
5 just done in preparation for the Senate meeting,
6 but apparently it was done earlier.

7 Q. It's totally fine. As we go through
8 things, like I said, at the outset, if something
9 refreshes your recollection, totally fine.

10 You mentioned she kind of provides these
11 overarching principles and then NCEIT, is it fair to
12 say, takes those lessons and then applies them
13 throughout North Carolina not just in a rote way but
14 blended with your own --

15 A. Sure, where it makes sense. I mean,
16 there are some things where we kind of lead the way
17 in the country. I will give you a good example.

18 The voter registration form. Every
19 state has a slightly different voter registration
20 form. There's federal guidelines but then your
21 interpretation of federal guidelines and you put
22 your form together. We had a form that was really
23 corrupt. It was improperly prepared in one section
24 because it didn't require, it didn't say it was
25 mandatory to provide a Social Security number or

1 We've shared our affidavit with other states on
2 voter registration and Tennessee's adopting it and
3 several other states are looking at it. It would
4 be really good if we all did the best practice and
5 we could all tighten up our election laws in a way
6 that's uniform around the country. Part of what
7 Cleta does is she monitors that stuff and helps us
8 improve.

9 Q. So she offers expertise where it's
10 relevant and then pulls expertise from places to
11 share with other parties?

12 A. That's correct.

13 Q. All the while kind of helping people
14 understand how they think about elections, what the
15 vulnerabilities are?

16 A. Yes.

17 You're going to have a good time with
18 Cleta.

19 Q. Let me flip to that small number. 564.
20 It's a page or two just after that slide we were
21 just looking at about the recommendation from Cleta.
22 You will see the number 4 there.

23 A. Absolutely.

24 Q. "Eliminate the same day registration
25 during early vote."

1 A. I agree with that.

2 Q. Is that something that came from Cleta?

3 A. No. That actually -- we had concluded
4 in -- early on and, again, some of it stems from my
5 personal experience with same day registration as
6 well as analysis of the voter laws and the way it
7 was attempted -- and it's got a checkered history
8 anyway. I think we went over that. Going all the
9 way back to 2007, it's got a checkered history of
10 attempts and failures.

11 I think Judge Schroeder would agree with
12 it as well, that might be the easiest way to fix
13 same day registration, just eliminate it
14 altogether. If someone can make it so that it's
15 less vulnerable for exploitation then maybe it
16 would be acceptable.

17 But that did not come from Cleta --
18 that's in her slide and it's her recommendation but
19 it was something we had already arrived at anyway.

20 Q. Is that something she agreed with --

21 A. Absolutely she agrees with that. She
22 might offer you some other things that ought to be
23 eliminated.

24 Q. Let me flip to 566 which is two pages
25 after that one. Actually 568 is the one I have

1 here. Do you see the number 13?

2 A. Um-hmm.

3 Q. That's the revocation affidavit that you
4 were talking about, right, or something like it?

5 A. Yep. You know that was Cleta's writing
6 because she uses the BOE term and I use NCSBE.

7 Q. Got it.

8 Let me flip you to 556 which is 10 pages
9 earlier. Challenge number 1.

10 A. Okay. This is my slide.

11 Q. So you wrote this one?

12 A. Yes. These are my words.

13 Q. If you want to go a little over halfway
14 down there's that "Same Day Registration" bullet.
15 "Same day registration during early voting is
16 inadequately scrutinized, electronic documents
17 allowed."

18 A. That's correct.

19 Q. You still agree with that?

20 A. I do.

21 Q. For the reasons we were talking about
22 earlier about the utility bills?

23 A. Yes.

24 Q. Let me direct you to the bullet second
25 from the top, "Out-of-state college student

1 registration to vote in North Carolina remains
2 problematic."

3 A. Where are you?

4 Q. Same page. Did I read that right?

5 A. Yeah. It is correct.

6 So when I did the presentation for the
7 senators, the explanation of that bullet is that
8 the state residency, the state residence definition
9 is weak, and so we're permissive by its nature and
10 allows -- in the conversation that we had with the
11 senators was this, we said, you know, if you're
12 going to declare someone an in-state registrant for
13 voting then why aren't they in-state for college
14 tuition? If you're going to say that they are --
15 they're going to be given permission to vote as a
16 permanent legal resident of North Carolina, they
17 should not have to pay out-of-state tuition. And
18 you're not going to do that. And they all agreed,
19 well, there is a difference.

20 I said, yeah, but how about some equal
21 treatment here. If they're claiming -- that's in
22 effect what the law says, if they're claiming this
23 is their permanent legal residence then they should
24 not be paying out-of-state tuition, they should be
25 in-state tuition. So, you know, you can't have it

1 both ways.

2 It's problematic because the students
3 are traveling here, they're dual-registered in
4 another state and they're going to go home to mommy
5 and daddy and they're going to go somewhere else to
6 go into employment and they're just voting here as
7 a convenience. By law they should be voting in

8 their home states. So we need to fix that. Either
9 grant them in-state tuition or make them vote back
10 home by absentee ballot. That was the thrust of
11 that conversation.

12 Q. Any reason to think that that applies
13 specifically to college students and not other
14 people who are in the state?

15 A. Well, it's because of the -- the subject
16 was students here. It wasn't extended to other
17 people. Other people that come into this state for
18 work or other purposes vote in their home state.
19 They're not allowed to vote here. We tend to be a
20 little more permissive for students. Remember I
21 said earlier, we bend over backwards to make it
22 easy for students to vote. By the way, I'm not
23 opposed to student voting, so it's on the record,
24 I'm not opposed to student voting, I think we
25 should encourage and try to get all students who

1 the home state and use of tools and accepting
2 citizen inputs where we know people that have moved
3 or that have died that need to be taken off the
4 voter rolls.

5 Q. Going back to the e-mail, the list of
6 priorities from Tiger Lily on page 3. Number 8.
7 Early voting and same day registration.

8 A. Yes.

9 Q. The second item there is, "Make same day
10 registrants eligible only for provisional ballots
11 which can be researched and challenged prior to
12 canvass."

13 A. Yeah. And that was a recommendation I
14 made because at the time I didn't think there was
15 any way we were going to get rid of same day
16 registration. So I said at least make it a
17 provisional ballot and then that would give us
18 ample time to do a little check on that person
19 through the digital resources we had and if
20 everything was fine, their vote would count at
21 canvass; but if we did find something, we could
22 provide a challenge on the voter prior to canvass.
23 So we thought that was a reasonable compromise. We
24 didn't get it, but we thought it would be a
25 reasonable compromise.

1 Q. Was that your idea?

2 A. Yes.

3 Q. How did you develop the understanding
4 that same day registration going away was probably
5 not on the table?

6 A. I don't remember how we knew it, but I
7 think we had a couple of legislators roll their
8 eyes and say that ain't happening.

9 Actually, I take it back. There was
10 some discussion about the fact this is all tied up
11 in the courts right now. It had been back and
12 forth. Again, we talked about the checkered
13 history of same day registration this morning. Who
14 knows what the Fourth Circuit will do with it. And
15 so we -- someone said it's a mission impossible,
16 we're not going to get rid of it so what can we do
17 to limit the potential exploitation, and that's
18 kind of what this idea was is to make it a
19 provisional ballot, at least it could be challenged
20 if we find evidence that the person shouldn't have
21 voted.

22 MR. SHENTON: We've been going for
23 about an hour and a half. It's a good time
24 for a five-minute break if you would like to
25 take a break.

1 an e-mail to Ted Davis. So, obviously, I was busy
2 that day. I sent this note to Grey Mills. But,
3 yeah, it's the same day as the one I sent to Davis
4 he responded to.

5 Q. And then Representative Davis responded
6 to your e-mail after looping in Representative
7 Mills --

8 A. Right.

9 Q. Had you been able to get in touch with
10 Representative Mills up to that point?

11 A. I really don't remember the precise date
12 that I met with him, I just know that it was not
13 long after this and it might have been I met with
14 him subsequent to this note that I remember going
15 in and educating him about a couple of his election
16 laws that he was completely unaware of because they
17 were innocuous to him, but they were really
18 important to my workers. So he agreed to help us
19 get that fixed where we treated in-person voting
20 during the early voting period the same as we did
21 on election day.

22 Q. What was your impression of
23 Representative Mills' attitude to those changes?
24 Was he interested in them?

25 A. He seemed so.

1 Q. Did you ever discuss same day
2 registration with him?

3 A. You know, I don't recall. I don't
4 recall.

5 Q. It's possible?

6 A. It's certainly possible. And I
7 certainly had him on my list of legislative
8 priorities. So, yeah, he would've at least known
9 that it was high on our priority list.

10 Q. You can see there in the attachments on
11 this e-mail had those priorities attached to it as
12 well --

13 A. Yeah, it did.

14 Q. If you flip through you can see those
15 are those priorities --

16 A. Agree. Agree. Yes.

17 Q. I want to direct your attention to the
18 first paragraph of the e-mail to Representative
19 Mills, last sentence, it says, "In the past several
20 months we briefed both Speaker Moore and Joe Coletti
21 on these priorities and both seemed receptive to
22 helping improve the quality of our election laws."

23 A. Yeah, and you know... yeah... I'm trying
24 to remember when we would have spoken to Tim Moore.
25 It's in March.

1 Joe Coletti, I remember the specific
2 meeting with Joe. I don't remember the meeting
3 with Moore. I'm drawing a blank on this one, I
4 really am. I wouldn't have lied to Greg Mills so I
5 must have spoken to Moore at some point, but I
6 don't remember him in the room.

7 Q. You don't have any recollection of that
8 meeting?

9 A. I don't remember. Honestly, I don't. I
10 have no idea when I would have spoken to Moore
11 unless he -- I know I talked to Sam Hayes in his
12 office, he's adjacent to Moore, but I don't
13 remember Moore being in the room. He may have been
14 but I don't remember that.

15 Q. Then you reference that the meeting you
16 had with Joe Coletti was about kind of --

17 A. That meeting was down in the basement --
18 down in the -- in the LOB down in the restaurant
19 area down there. He's got an office adjacent to
20 the restaurant. That's where I met with Joe. I
21 remember meeting with Sam in his office adjacent to
22 the Speaker's office but I don't remember the
23 Speaker being in there. Obviously, if I said this
24 to Greg Mills I must have talked to the Speaker at
25 some point but I don't remember what the conditions

1 were for that. I can tell you this, it wasn't an
2 appointment that I had with the Speaker because I
3 don't have any record of that.

4 Q. Any idea why you would have said they
5 seemed receptive to improving the quality of our
6 election laws?

7 A. Yeah. I know Joe was keenly interested
8 in trying to get some of the more important points
9 that we had made in our priorities list done, but
10 he couldn't tell me exactly what they would take
11 up. Similar in some ways to the 747 meeting that
12 we had where they seemed interested but they really
13 didn't commit to any one thing. They did tell us a
14 few things they wouldn't do or couldn't do because
15 of lawsuits. But it's just a general receptive
16 meeting that we had with Joe and with Sam. Sam
17 Hayes had promised us that they were going to take
18 up some stuff for action so.

19 Q. And they were interested in kind of
20 hearing your priorities and what you might like to
21 see in that bill?

22 A. Yeah. Again, I would tell you the main
23 reason that they had a keen interest at the senior
24 levels was because of the donors, because they were
25 interested in making the donors happy.

1 A. Yeah.

2 Q. But you did get to meet --

3 A. I did. I actually did have a really
4 good conversation with him.

5 Q. Great. Let me go to the next line of
6 that e-mail. It says, "Cleta is supposed to be
7 having a meeting with Speaker Tim Moore in the next
8 week or so."

9 A. Yeah, that never happened. I can tell
10 you that never happened.

11 Q. Do you know why?

12 A. I can only speculate. I mean, I will
13 only go so far.

14 So there's two people that legislatures
15 are responsive to, their constituents and their
16 donors, okay? And Cleta is neither one of those to
17 Speaker Moore. So, I mean, she had offered,
18 open-ended offered to come up and brief legislators
19 on both sides, both chambers, and we were able to
20 finally coerce the three Senate co-chairs to sit
21 and take a meeting after a bunch of House bills had
22 already been introduced. So our real focus was on
23 the Senate at that time. We really weren't
24 pressing the house so much as we were the Senate
25 because they hadn't done anything at that point.

1 Q. I'm going to go to another exhibit now.
2 This is one that we've been talking about a little
3 bit. Previously marked as Plaintiff's Exhibit 11.
4 I think you will recognize it, but you tell me if
5 that's right.

6 A. Oh, yeah. I recognize it already.

7 Q. So you recognize this document?

8 A. Absolutely. It's mine, my work.

9 Q. This is the presentation to the Senate
10 election chairs we've been talking about a few times
11 today?

12 A. Right.

13 Q. You were definitely present for this
14 when it was presented?

15 A. I was.

16 Q. Do you remember who else was in the
17 room --

18 A. I gave you that list earlier. It was
19 Senators Hise, Daniel and Newton, Paul Newton, and
20 it was Brent Woodcox, Cleta Mitchell, myself and
21 Jay DeLancy.

22 Q. Anybody else in the room?

23 A. Not to my knowledge. If they were in
24 there, they were hiding.

25 Q. No one in there from the State Board of

1 Elections?

2 A. No, not at all.

3 Q. Let's flip to page 8 which has a number
4 ending in 15 at the bottom. It starts "Challenge 1"
5 at the top.

6 A. All right.

7 Q. If you look at that bullet second from
8 the bottom, you've got that same language we
9 discussed a little bit earlier, "Out-of-state
10 college student registration to vote in North
11 Carolina remains problematic."

12 Fair to say it's the same things that
13 were motivating as we talked about that language
14 before?

15 A. Exactly.

16 Q. Did they have any specific reaction to
17 that language at all in the meeting that you can
18 recollect?

19 A. Not on that particular bullet, no.
20 Again, when you're going through a set of slides
21 this in-depth for a period of two hours, you're
22 going to have -- only occasionally are they going
23 to raise an issue.

24 Q. You had done your homework, you had a
25 lot of things you wanted to talk to them about?

1 Q. I will represent that, just like the
2 other ones, legislative defendants sent this one
3 over.

4 A. Yeah, I have no reason to doubt and it
5 would be something I would do in a followup.

6 Q. Did you have any conversations with any
7 legislators after this meeting before Senate Bill
8 747 was introduced?

9 A. Not on the Senate side.

10 Q. On the House side?

11 A. Yeah. So this would have been May --
12 mid May -- do you have the date of 747's
13 introduction?

14 Q. I believe it was June 1. So not too
15 much time.

16 A. I don't imagine in that one week lapse
17 period I had much interaction beyond just general
18 coordination on 770 and 772 that we still were
19 hoping were moving. And we really didn't know what
20 to expect when they -- with 747.

21 Q. Let's take a look at that first filed
22 version. We will introduce what's been previously
23 marked as Plaintiff's Exhibit 14. I will represent
24 to you this is the first filed version of that
25 legislation downloaded straight off the General

1 Assembly website. Let me make sure I go to the
2 right part here. While I'm flipping to it, do you
3 remember anything about your reaction generally to
4 the bill when you first saw it without -- no need to
5 reference any specifics, just your recollection at
6 the time?

7 A. Yes. So like I say, there were three
8 editions to the bill. The first edition, I think
9 my reaction was we were generally encouraged as a
10 first edition bill, had some interesting language
11 in it, we were really happy to see that there was
12 poll observer language, happy to see that there was
13 some attempt being made to remove noncitizens from
14 the ballots. So, yeah, there was some general
15 encouragement in there, yes.

16 Q. Let me direct you to page 10 now that
17 I've got it and it's line 27, about halfway down.

18 A. All right.

19 Q. It says, "Part 8 required provisional
20 ballot for same day registration." And then it adds
21 some statutory language about when a provisional
22 ballot is going to be required pretty much for
23 someone who uses same day registration.

24 Do you see that language?

25 A. Yes, I do.

1 Q. Does that look similar to the proposal
2 we've been discussing?

3 A. It sure does. At least the first part
4 of it.

5 Q. Fair to say it's pretty similar; right?

6 A. It is. It is.

7 Q. Do you remember being in that first
8 filed version?

9 A. I didn't recall it being in there, but
10 there were 45 parts or whatever. I didn't remember
11 it being in there but, yeah. Obviously they were
12 copying Representative Davis's work; huh?

13 Q. Looks that way.

14 A. I know I was surprised when I found out
15 George Cleveland told me that some of his work got
16 in there too but, obviously, they did borrow some
17 stuff from some of the House Bills.

18 Q. What is your recollection of what
19 happened in the Senate after the bill was
20 introduced? What was your impression of the process
21 on that side?

22 A. It was murky. We didn't know what was
23 going to happen with this thing. Obviously, we
24 knew the House was interested in seeing some action
25 taken on election reform and we were encouraged

1 the Committee for Rules and Operations in the
2 Senate." This is prior to the passage. He picked
3 up -- I don't know who this guy is but he picked up
4 an earlier critical document of 747 while it was
5 still sitting in the Senate before passage and
6 that's why the lines don't measure up and why it
7 doesn't make sense, because he's commenting on a
8 different bill and he's attaching it to something
9 where it's already passed through the Senate.

10 Q. So he's just talking about the wrong
11 version of the bill here?

12 A. Right.

13 Q. Got you.

14 Is it fair to say that the version that
15 did pass the Senate, does it still have that concern
16 about the vagueness of when that provisional ballot
17 will count or do you think it had been addressed?

18 A. No, it's been addressed under (c). (c)1
19 and 2.

20 Q. Do you have any memory of discussing
21 that with any legislator in the Senate side?

22 A. No. In fact, I'm not sure that the
23 Senate actually fixed that. That may have been a
24 compromise. There may have been a House
25 conversation with the senators to get that done. I

1 don't know. I have no idea how they came to that
2 final language.

3 Q. But this version of the bill was before
4 it had crossed over to the House at all?

5 A. Yeah, but that doesn't mean there
6 weren't conversations because I absolutely do
7 believe there were conversations because the House
8 knew that we were very upset with the second
9 edition of this bill and wanted to get some things
10 in there before it came over because they were at a
11 point where they wanted to get something done and
12 I'm sure there was some conversations at least
13 within the staff between Woodcox and Hayes or
14 Woodcox and Coletti or somebody, but they restored
15 some of the good parts in here, and a lot of that I
16 think was lobbying, the advocacy that we were
17 doing.

18 Q. Fair to say.

19 Tell me a little bit about your
20 recollection of what happened when the bill did
21 cross over to the House. How did the House process
22 go?

23 A. I really don't remember now. I really
24 don't. It's all a blur. I just know that we were
25 really happy that we got some restoration of good

1 remember that neither Ted Davis who sponsored the
2 bill, the one bill on same day registration, nor
3 George Cleveland or anybody else offered to say
4 we're going to stop same day registration. Nobody
5 offered to take that up.

6 Q. If we go to the first e-mail in the
7 thread from Carol snow. She says, "I'd prefer to
8 stop the same day registration nonsense which only
9 opens the door to allow unverified voters to
10 participate in elections that are required by law to
11 be conducted fairly."

12 Do you see that?

13 A. Yes.

14 Q. Do you agree with that characterization?

15 A. Maybe it's not artfully stated, but I
16 agree generally with the characterization that I
17 think, as I've said all day long, same day
18 registration I think is fraught with vulnerability
19 and there's a better way.

20 Q. So maybe not artfully stated but in the
21 right place?

22 A. Yeah, I agree.

23 Q. Just one more thing I want to ask about.

24 Do you remember when House Bill 770 was heard in the
25 House elections committee in 2023?

1 A. I may have spoken at that.

2 Q. I think you did.

3 A. Yes.

4 Q. Do you remember anything from the
5 committee hearing generally?

6 A. No. They all run together. If you want
7 to refresh my memory about something, I would be
8 glad to comment on it.

9 Q. There was a comment that one of the
10 legislators made in the committee hearing that I
11 wanted to run by you. It was about 45 minutes in.

12 They said, "My daughter came to me and
13 she said, you know, Dad, what's really interesting,
14 and she said it's really not fair, she said we do a
15 lot of work on the campus to register voters, and
16 she goes and that's great, we want people to vote,
17 and she said when they vote in the Senate, they vote
18 in the president, great, she goes, but here's what's
19 not fair, they vote in the local elections, and she
20 said the problem is that college students don't
21 understand the issues of the local politics or the
22 local people. She says effectively, when you have a
23 big university in a college town, the college
24 students effectively have the ability to completely
25 eliminate the representation of the local people

1 because they don't understand the issues."

2 What do you make of that?

3 A. Well, okay. I completely understand her
4 line of thinking, but there are other issues at
5 play here.

6 I have the same discussion with military
7 members. Military members have a home of record
8 typically in a state that doesn't charge income tax
9 so they stay registered where their home of record
10 is. I say, well, you don't have to do that, under
11 the law you can register and influence the tax laws
12 and the boards of education where you're living
13 because you really want to influence where you're
14 living, that's where your vote means the most.

15 So I take the contrarian view to what
16 she said, that if you are living, literally living
17 in a place and you're residing there for a period
18 of time and you're either a taxpayer or you're a
19 recipient of government services, you want to
20 impact your local elections because that's fair.

21 However, if you're there only for the --
22 only there temporarily and you're only there for
23 the purpose of receiving an education then in my
24 mind you should be voting where you're going to
25 return to because that's really what the law

1 provides for, and you should vote absentee there
2 where you can influence the local election there.
3 Because you're insular on an institution campus
4 there. You're going to get those services, you
5 don't have to vote to get those services, you're
6 going to get those services. Voting for the school
7 board in Wake County or Durham County or whatever,
8 you're impacting the election.

9 But to her point, they are unnecessarily
10 weighting or moving the center of the gravity left
11 or right based on their political proclivity as
12 opposed to their real sincere interest in changing
13 education or tax policy or whatever. And, yeah, we
14 all agree if they're voting for president, vice
15 president or Senate, that's a different thing, but
16 in the local elections, you are shifting that.

17 I understand her's, I don't necessarily
18 agree with her, but I do understand the line of
19 thinking that it's not fair to the local taxpayers
20 that their vote gets diluted by students who really
21 have no interest in the local affairs because they
22 don't really understand the interest.

23 Q. Is there anything you feel like in our
24 conversation today that I am missing that you think
25 is important to what we've discussed?